

# **EXHIBIT B**

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

In re WARREN HAVENS on Habeas Corpus.

A150411

Alameda County No. 2002070640



BY THE COURT:\*

The alternative writ of mandate, having been complied with by respondent superior court's order of September 1, 2017, is discharged, and the petition and petitioner's counsel's motion to withdraw are hereby dismissed as moot. The stay previously issued by order dated January 31, 2017 is dissolved.

Date SEP -5 2017

**Simons, J.**, Acting P.J.

\* Before Simons, Acting P.J., Needham, J., and Bruiniers, J.



\*14596114\*

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 A Limited Liability Partnership  
 2 Including Professional Corporations  
 GERALDINE A. FREEMAN, Cal. Bar No. 111483  
 3 DAVID A. DEGROOT, Cal. Bar No. 168073  
 Four Embarcadero Center, 17<sup>th</sup> Floor  
 4 San Francisco, California 94111-4109  
 Telephone: 415.434.9100  
 5 Facsimile: 415.434.3947  
 Email: gfreeman@sheppardmullin.com  
 6 ddegroot@sheppardmullin.com

**FILED**  
ALAMEDA COUNTY

SEP 01 2017

CLERK OF THE SUPERIOR COURT

By C. J. [Signature] Deputy

7 Attorneys for Receiver  
SUSAN L. UECKER

8  
 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 COUNTY OF ALAMEDA- UNLIMITED JURISDICTION

11 ARNOLD LEONG,  
 12 Plaintiff,  
 13 v.

Case No. 2002-070640

**ORDER PARTIALLY VACATING  
CONTEMPT ORDER AND IMPOSING  
NEW PUNISHMENT**

14 WARREN HAVENS, an individual,  
 ENVIRONMENTEL LLC, ENVIRONMENTEL-2  
 15 LLC, INTELLIGENT TRANSPORTATION &  
 MONITORING WIRELESS LLC, V2G LLC,  
 16 ATLAS WIRELESS LLC, SKYBRIDGE  
 SPECTRUM FOUNDATION, VERDE  
 17 SYSTEMS LLC, TELESARUS HOLDINGS  
 GB, LLC, and DOES 1 through 30, inclusive,  
 18 Defendants.

Date: September 01, 2017  
 Time: 3:00 p.m.  
 Dept.: 20

**RESERVATION NO. C-1880492**

20 On September 1, 2017 at 3:00 pm in Department 20 of the above-titled Court, located at  
 21 located at 1221 Oak Street, Oakland, CA, 94612, the Court held a further hearing pursuant to its  
 22 order entitled *Order Setting Hearing and Briefing Schedule re: Alternative Writ of Prohibition*  
 23 (the "Order"). Appearances were as stated on the record.

24 The Court, having considered the Alternative Writ of Prohibition and Order Issuing  
 25 Alternative Writ of Prohibition issued by the Court of Appeal dated August 3, 2017, the papers  
 26 filed in response to the Order, the argument of unrepresented parties and of counsel, the records of  
 27 the Court and good cause appearing therefor,

28

1           **IT IS HEREBY ORDERED THAT:**

2           1.       This Court's finding in its order of December 14, 2016 ("Contempt Order") that  
3 defendant Havens' September 2, 2016 filing to the Federal Communications Commission violated  
4 a court order is VACATED;

5           2.       The Court also VACATES the punishment imposed in the Contempt Order and  
6 imposes the following punishment on the remaining count of contempt: a fine of \$1,000 payable  
7 to the Court and a sentence of five (5) days in the Alameda County jail;

8           3.       The Court also VACATES its prior award of fees and costs to the Receiver and  
9 now awards the Receiver \$28,555 in fees and costs;

10          4.       Havens has not fulfilled the mitigation steps identified in paragraph 33 of its  
11 December 14, 2016 order. Upon the dissolution of the stay issued by the Court of Appeal, the  
12 punishment of Havens will not be stayed;

13          4.       Havens is ordered to appear personally in Dept. 20 of this Court on 11/29,  
14 2017 at 3:00 <sub>pm</sub> and be prepared on that date and at that time to surrender to the Alameda County  
15 Sheriff's office; and,

16          5.       The Clerk of Court is directed to serve endorsed filed copies of this Order on Mr.  
17 Havens and counsel of record with proof of service.

18           **IT IS SO ORDERED.**

19  
20 DATED: 9/1/2017  
21

22  
23 Paul D. Herbert  
24 Paul D. Herbert  
25 JUDGE OF THE SUPERIOR COURT  
26  
27  
28

Superior Court of California, County of Alameda  
Department 20, Administration Building

Case Number: 2002-070640

Case Name: Arnold Leong VS Warren Havens

RE: ORDER PARTIALLY VACATING CONTEMPT ORDER AND IMPOSING NEW  
PUNISHMENT

**DECLARATION OF SERVICE**

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was hand-delivered to the parties in this action in open court (Dept. 20) on the date shown below, and that the delivery of the foregoing and execution of this certificate occurred at 1221 Oak Street, Oakland, California.

I further certify that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown at the bottom of this document, and that the mailing of the foregoing and execution of this certificate occurred at 1221 Oak Street, Oakland, California.

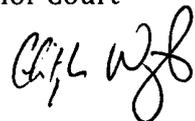
I further certify that a true and correct copy of the foregoing document was served electronically pursuant to Certificate of Service, to the email addresses listed below, entered in this proceeding on August 31, 2017, via filing at the Clerk's Office. Execution of this certificate occurred at 1221 Oak Street, Oakland, California.

Executed on September 1, 2017

Executive Officer/Clerk of the Superior Court

By

Deputy Clerk Christopher Wright



David DeGroot  
[DDeGroot@Sheppardmullin.com](mailto:DDeGroot@Sheppardmullin.com)  
Counsel for Susan Uecker, Receiver

Warren Havens  
2649 Benvenue Ave.  
Berkeley, CA 94704

Richard Osman  
[resman@bfesf.com](mailto:resman@bfesf.com)  
Counsel for Arnold Leong

Bertrand, Fox & Elliot  
Richard Osman  
2749 Hyde Street  
San Francisco, CA 94109

Paul Kirsch  
[paul@scklegal.com](mailto:paul@scklegal.com)  
Counsel for Arnold Leong

Warren Havens  
[wrrnvns@gmail.com](mailto:wrrnvns@gmail.com)

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

WARREN HAVENS,

Petitioner,

v.

SUPERIOR COURT FOR THE COUNTY OF

ALAMEDA,

Respondent;

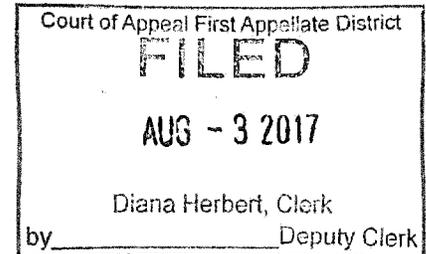
SUSAN UECKER,

Real Party in Interest.

A150411

Alameda No. 2002070640

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**ORDER ISSUING ALTERNATIVE WRIT OF PROHIBITION**

**BY THE COURT:\***

The court has conducted a detailed review of the record and the parties' briefing regarding this petition.

“In a contempt proceeding resulting in punitive sanctions . . . , guilt must be established beyond a reasonable doubt. [Citation.] A reviewing court will uphold a contempt judgment only if there is substantial evidence to sustain the jurisdiction of the trial court.” (*Mitchell v. Superior Court* (1989) 49 Cal.3d 1230, 1256.) “In the review of a contempt proceeding ‘the evidence, the findings, and the judgment are all to be strictly

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\* Before Simons, Acting P.J., Needham, J., and Bruiniers, J.

construed in favor of the accused [citation], and no intendments or presumptions can be indulged in aid of their sufficiency. [Citation.] If the record of the proceedings, reviewed in the light of the foregoing rules, fails to show affirmatively upon its face the existence of all the necessary facts upon which jurisdiction depended, the order must be annulled.’ [Citation.]” (*Ibid.*, italics omitted.) “A finding of indirect contempt . . . must be based upon a clear, specific, and unequivocal order.” (*In re Marcus* (2006) 138 Cal.App.4th 1009, 1016.) “ ‘Any ambiguity in a decree or order must be resolved in favor of an alleged contemnor.’ ” (*Id.* at p. 1015.)

Respondent superior court erred when it found petitioner’s September 2, 2016 submission to the Federal Communications Commission (FCC) violated a court order. The superior court’s November 16, 2015 order prohibited petitioner from “[c]ommunicating with the FCC regarding the FCC Licenses or the Receivership Entities.” That order was “clarifi[ed]” by the superior court’s July 11, 2016 order prohibiting petitioner from communicating “in a manner that might lead to the recipient of the communication to infer that the communication from [petitioner] may be on behalf of any Receivership Entity.” This court, having reviewed the record concerning respondent superior court’s July 11, 2016 order, determines that the most reasonable construction of respondent’s orders is that petitioner was permitted to communicate with the FCC as long as he clearly indicated he was not speaking on behalf of any Receivership Entity. Consequently, the contempt adjudication as to this count appears erroneous under the foregoing standards, because substantial evidence does not exist to sustain this contempt finding.<sup>1</sup>

Therefore, let an alternative writ of prohibition issue prohibiting respondent Alameda County Superior Court from taking any further action on the December 14, 2016 “Order Holding Warren Havens in Contempt for Failure to Comply with Court Orders,” in *Arnold Leong v. Warren Havens, et al.*, Case No. 2002-070640, other than to vacate the finding that petitioner’s September 2, 2016 filing to the FCC violated a court order, and to impose a new punishment excluding this contempt finding; or, in the alternative, to appear and show cause before Division Five of this Court why a peremptory writ of prohibition should not issue.

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<sup>1</sup> In light of this court’s conclusion concerning this contempt count, it is unnecessary to reach petitioner’s other challenges to that count. Additionally, the court has considered petitioner’s challenge to the remaining contempt count and concludes it does not appear petitioner has persuasively demonstrated an entitlement to writ relief regarding that count. Therefore, this alternative writ does not extend to that claim.

If respondent superior court complies with this court's directives as set forth above, and does so on or before September 5, 2017, the court will dissolve the stay previously imposed, discharge the alternative writ, and dismiss the petition as moot.

This court requests that respondent superior court inform this court of its decision as soon as possible, and provide this court with copies of any new orders issued by respondent.

Should respondent court choose not to follow the above procedure, but instead to appear and show cause before this court why a peremptory writ of prohibition should not issue, this matter will be heard before Division Five when ordered on calendar.

The alternative writ is to be issued, served and filed on or before August 4, 2017, and shall be deemed served upon mailing by the clerk of this court of certified copies of the alternative writ and this order to all parties and to respondent superior court.

A written return to the alternative writ shall be served and filed on or before September 20, 2017, and a reply to the return shall be served and filed on or before October 5, 2017. (Cal. Rules of Court, rule 8.487(b).) If, however, respondent superior court complies with the alternative writ, and proof thereof is filed herein on or before those dates, then no return or reply need be filed.

Date AUG - 3 2017

**Simons, J.** Acting P.J.

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

WARREN HAVENS,

Petitioner,

v.

SUPERIOR COURT FOR THE COUNTY OF

ALAMEDA,

Respondent;

SUSAN UECKER,

Real Party in Interest.

A150411

Alameda No. 2002070640

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**ALTERNATIVE WRIT OF PROHIBITION**

To the Superior Court of the State of California, in and for the County of Alameda, Greetings:

The petition for writ of habeas/certiorari/prohibition on file herein having been considered and good cause appearing for the issuance of this alternative writ of prohibition,

WE COMMAND YOU, forthwith upon receipt of this writ to either:

(a) Take no further action on the December 14, 2016 "Order Holding Warren Havens in Contempt for Failure to Comply with Court Orders," in *Arnold Leong v. Warren Havens, et al.*, Case No. 2002-070640, other than to vacate the finding that petitioner's September 2, 2016 filing to the Federal Communications Commission violated a court order, and to impose a new punishment excluding this contempt finding; OR;

(b) In the alternative, show cause before this court when ordered on calendar, why a peremptory writ of prohibition should not issue.

Respondent court shall make a decision whether to comply with the directive of paragraph (a) on or before September 5, 2017. If respondent court chooses to comply, the stay will be dissolved, the alternative writ will be discharged and the petition will be dismissed as moot. If respondent court instead elects to show cause, the matter will be heard when ordered on calendar.

This court requests that respondent superior court inform this court of its decision as soon as possible, and provide this court with copies of any new orders issued by respondent.

Witness the Honorable Mark B. Simons, Acting Presiding Justice of the Court of Appeal of the State of California, First Appellate District, Division Five.

Attest my hand and the Seal of this Court this 3rd day of August, 2017.

DIANA HERBERT  
Clerk of the Court

By: A. Reasoner  
Ann Reasoner  
Deputy Clerk

I, DIANA HERBERT, CLERK OF THE COURT OF APPEALS STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT, DO HEREBY CERTIFY THAT THIS PRECEDING AND ANNEXED IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.

WITNESS MY HAND AND THE SEAL OF THE COURT THIS 3rd DAY OF August 2017

BY Ann Reasoner CLERK DEPUTY